

EX PARTE OR LATE FILED

March 23, 1999

Ex Parte Written Presentation

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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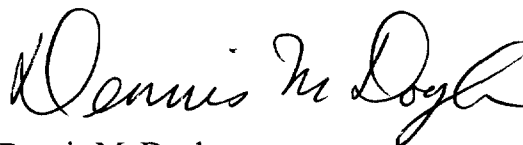
Re: Long-Term Telephone Number Portability Tariff
Filings of Ameritech Operating Companies,
CC Docket No. 99-35/Transmittal Nos. 1186 and 1187

Dear Madam Secretary:

Arch Communications Group, Inc, to Section 1.1206(b)(1) of the Commission's rules, hereby submits two copies of a written *ex parte* submission it made today with the Common Carrier Bureau.

Please contact the undersigned if you have any questions.

Respectfully submitted,



Dennis M. Doyle
Vice President – Telecommunications
Arch Communications Group, Inc.
1800 West Park Drive, Suite 250
Westborough, MA 01581
508-870-6612
(fax: 508-870-6046)

cc: Jim Devine, Ameritech (fax: 312-335-2925)
Jane Jackson, Common Carrier Bureau (fax: 202-418-1567)
Bruce Stroud, Ameritech (fax: 847-248-2555)
Yog Varma, Common Carrier Bureau (fax: 202-418-2825)

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March 23, 1999

EX PARTE OR LATE FILED

Via Facsimile

Mr. Yog R. Varma
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room C-345
Washington, D.C. 20554
Fax: 202-418-2825

Ms. Jane E. Jackson, Chief
Competitive Pricing Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W., Room C-345
Washington, D.C. 20554
Fax: 202-418-1567

Re: Long-Term Telephone Number Portability Tariff
Filings of Ameritech Operating Companies,
CC Docket No. 99-35, Transmittal Nos. 1186 and 1187

Dear Mr. Varma and Ms. Jackson:

Arch Communications Group, Inc. asks the Commission to include in its investigation of Ameritech's number portability tariffs Ameritech's unilateral — and unlawful — decision to apply its new local number portability ("LNP") monthly charge on facilities-based carriers that interconnect with Ameritech using Type 1 interconnection.

FCC Rule 52.33(a)(1) permits incumbent LECs like Ameritech to impose their LNP monthly charge on end users, on resellers, and on purchasers of an incumbent's unbundled switching ports. Arch's CMRS licensee subsidiaries are not end users, they do not resell Ameritech's local service, and they do not purchase Ameritech switch ports as unbundled network elements under Section 251 of the Communications Act. Consequently, Rule 52.33(a)(1) does not authorize incumbent LECs to assess their monthly LNP charge on Arch's CMRS subsidiaries — whether they interconnect using Type 1 or Type 2 interconnection.

On February 3, 1999, *after* its LNP charge tariffs became effective, Ameritech notified Arch that it would begin imposing its new LNP charge on Arch to the extent Arch interconnects with Ameritech using Type 1 interconnection. *See* Attachment A. (Even Ameritech agrees that its new charge may not be imposed on carriers using Type 2 interconnection.) Arch questioned Ameritech's right to impose this charge on March 2, 1999. *See* Attachment B. Ameritech responded on March 12, 1999 by asserting that it is Arch that is "misinformed" and "mistaken." *See* Attachment C.

While accusing Arch of being "misinformed," Ameritech does not dispute that neither Rule 52.33(a)(1) nor the Commission's *LNP Cost Recovery Order*, 13 FCC Rcd

Mr. Yog R. Varma and Ms. Jane E Jackson
CC Docket No. 99-35, Ameritech Transmittals 1186 and 1187
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11701 (1998), even mentions the imposition of LNP monthly charges on carriers using Type 1 interconnection. Instead, Ameritech justifies its action by analogizing Type 1 interconnection used by CMRS carriers with DID/PBX service ordered by Ameritech's end-user customers:

Since, Type 1 Wireless trunks are DID, DOD PBX local exchange trunks, under the FCC's rules and orders, the charge applies. Attachment C.

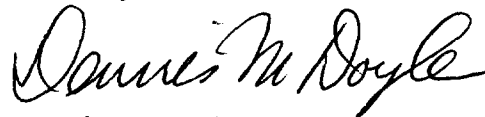
The problem with Ameritech's rationale is that the Commission rejected it years ago:

Bell Atlantic's comparison between Type 1 connections and PBX trunks is inappropriate . . . PBX service is quite different than that of RCC interconnections. Most notably, a PBX trunk is a connection between an end user premise and the LEC switch. A Type 1 connection, on the other hand, links the LEC to the MTSO, which is not an end user premise. By treating Type 1 connections like a PBX service, . . . Bell Atlantic is not conforming with Commission policy. *Bell Atlantic*, 6 FCC Rcd 4794, 4795 ¶ 10 (1991).

In this regard, Arch notes that no other LEC has advised Arch that it intends to impose its LNP monthly charge on carriers using Type 1 interconnection — suggesting that Ameritech's novel interpretation of Rule 52.33(a)(1) is not even shared by any other LEC.

For the foregoing reasons, Arch respectfully requests that the Commission declare unlawful Ameritech's imposition of its new LNP monthly charge on carriers that interconnect with Ameritech using Type 1 interconnection.

Sincerely,



Dennis M. Doyle
Vice President – Telecommunications
Arch Communications Group, Inc.
1800 West Park Drive, Suite 250
Westborough, MA 01581
508-870-6612

cc: Jim Devine, Ameritech General Manager – Sales Wireless (fax: 312-335-2925)
Bruce Stroud, Ameritech Director – Federal Regulatory (fax: 847-248-2555)



ATTACHMENT A

Mr. Dennis Doyle
Interconnect Analysis
Arch Communications, Inc.
Ste 350
1800 West Park Dr
Westborough MA 01581

February 3, 1999

Dear Mr. Dennis Doyle:

As you may be aware, Ameritech has added the capability for local number portability to its network as mandated by the Telecommunications Act and the Federal Communications Commission. This enables customers to keep their telephone numbers when they change local exchange carriers and is intended to stimulate competition.

Implementing this mandate required Ameritech and other incumbent local exchange carriers to add a database query system to their networks to route calls to telephone numbers that are "ported" to another carrier's switch. A recent FCC order allows telephone companies to recover the cost of the technology development, hardware and software needed for local number portability. Some of these costs will be recovered through rates for LNP Query Service, the new LNP Database Access service, and a monthly surcharge for Type 1 wireless interconnection trunks.

Effective February 1, 1999, the LNP Query Service rate on default queries will be reduced from \$.005232 to \$.003102. Since this usage is billed a month in arrears, you should see the rate change on your March 1999 billing for your February 1999 LNP Query usage.

We are also introducing a new LNP Database Access service that will allow carriers that deploy their own LNP query capability to use Ameritech's LNP database. Wireless carriers can access this LNP Database directly by using Signaling System 7 (SS7) with either AIN or IN supported protocols. The one time ordering and provisioning charges apply and the per query rate is \$.001330.

Finally, a Service Provider Number Portability Monthly Charge will be applied to Type 1 Wireless Interconnection trunks. This charge is \$3.69 per Type 1 trunk per month. This rate commences on the effective date (currently scheduled for 2/1/99) of Ameritech's tariff and continues for sixty (60) months.

If you have any questions on the new Database Access service or would like more information on how local number portability charges apply to your Ameritech service, please contact your Ameritech Information Industry Services account manager. We want to work with you to keep Ameritech your telecommunications supplier of choice.

Sincerely,

A handwritten signature in cursive script, reading "Anne L. Zaczek".

Anne L. Zaczek
Vice President - Finance



ATTACHMENT B

March 2, 1999

Ms. Anne L. Zaczek
Vice President – Finance
Ameritech Information Industry Services
350 North Orleans Street, Floor 5
Chicago, IL 60654

Re: New Ameritech Number Portability Charge

Dear Ms. Zaczek:

This letter responds to your February 3, 1999 letter (attached). In this letter you advised Arch Communications that beginning two days earlier, on February 1, 1999, Ameritech began imposing a new monthly charge on Arch — a "Service Provider Number Portability Monthly Charge." The extent of your discussion of this new charge was limited to the following three sentences:

Finally, a Service Provider Number Portability Monthly Charge will be applied to Type 1 Wireless Interconnection trunks. This charge is \$3.69 per Type 1 trunk per month. This rate commences on the effective date (currently scheduled for 2/1/99) of Ameritech's tariffs and continues for sixty (60) months.

This new charge is inconsistent with governing FCC rules and is thus unlawful.

The FCC has permitted incumbent LECs like Ameritech to impose a new monthly number portability charge to recover certain of their number portability costs, but the FCC has made clear such charges may be imposed only on end users, resellers, and carriers purchasing switching ports as unbundled network elements. FCC Rule 52.33(a)(1) provides in pertinent part:

(A) An incumbent [LEC] may assess each end user it serves . . . one monthly number-portability charge per line

(B) An incumbent [LEC] may assess on carriers that purchase the incumbent [LEC's] switching ports as unbundled network elements under section 251 of the Communications and resellers of the incumbent [LEC's] local service the same charges as described in subparagraph (a)(1)(A), as if the incumbent [LEC] were serving those carrier's end users.

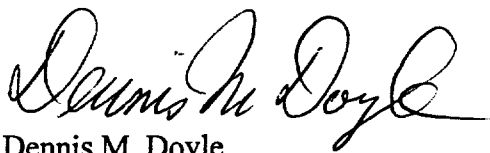
Ms. Anne L. Zaczek
New Ameritech LNP Charge
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Arch is not an end user; it is not a reseller; and it does not purchase Ameritech switching ports as unbundled network elements under Section 251. Accordingly, it is inappropriate for Ameritech to impose its monthly number portability charge on Arch.

CMRS providers like Arch interconnect with LECs like Ameritech using Type 1 or Type 2 interconnection — or in Arch's case, using both Type 1 and Type 2. Ameritech does not propose to assess an LNP charge on CMRS carriers interconnecting using Type 2 interconnection; indeed, such a charge would be inconsistent with Rule 52.22(a)(1). The same analysis applies to Type 1 interconnection.

One final request. Arch asks that in the future Ameritech advise it of proposed new charges *before*, not after Ameritech has already begun assessing the new charge. Common courtesy warrants no less.

Sincerely,



Dennis M. Doyle
Vice President – Telecommunications
Arch Communications Group, Inc.
1800 West Park Drive, Suite 250
Westborough, MA 01581-3912
508-870-6612
fax: 508-870-6046

cc: Patrick Beasley



James E. Devine
General Manager
Sales Wireless

ATTACHMENT C

March 12, 1999

Mr. Dennis M. Doyle
Vice President - Telecommunications
Arch Communications Group, Inc.
1800 West Park Drive
Suite 250
Westborough, MA 01581-3912

Dear Mr. Doyle:

Thank you for your letter to Anne Zaczek of March 2, 1999, expressing your concern regarding Ameritech's authority to assess its Service Provider Number Portability (LNP) Monthly Charge to Type 1 Wireless Interconnection trunks provided to your company. I appreciate this opportunity to address your concerns and to set the record straight.

You are misinformed when you assert that the assessment of the LNP Monthly Charge by Ameritech to its Type 1 Wireless Interconnection trunks is unauthorized. Rather, the charge is specifically authorized in Ameritech's Federal Communications Commission (FCC) Tariff No. 2, Section 4.7 that the FCC permitted to go into effect on February 1, 1999.

You are also mistaken that the FCC's orders and rules exclude CMRS providers from the LNP monthly charge where they utilize Type 1 Wireless trunks to serve their customers. In fact, the FCC's Third Report and Order in CC Docket No. 95-116 at paragraph 145 specifically authorizes incumbent local exchange carriers (ILEC) like the Ameritech Operating Companies to assess the LNP monthly charge to users of PBX trunks and to resellers of the incumbent LEC's local exchange service.

Moreover, FCC Rule 47 CFR 52.33(a)(1)(A) codifies those requirements. Since, Type 1 Wireless trunks are DID, DOD PBX local exchange trunks, under the FCC's rules and orders, the charge applies. Equally as important, when CMRS providers use incumbent LEC Type 1 trunks they are reselling the incumbent LEC's Type 1 trunks to their customers, and the LNP monthly charge also applies on that basis. Further, although the FCC excluded several carrier-to-carrier services, such as access charges and unbundled local loops, it did not exclude CMRS providers or Type 1 trunks. Had it intended to do so, as it did with access charges, it would have specifically done so.

I hope this explains why we have included Type 1 Wireless Interconnection trunks for the LNP Monthly Charge. If you have any questions please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Devine". The signature is written in a cursive, flowing style.

CC: Nerissa Hunt
Anne Zaczek